HIGH COURT OF UTTARANCHAL AT- NAINITAL.

Writ Petition No. 179(M/B) 2004

Smt. Godawari Sharma W/o Sri Prem Chand Sharma,
R/o Mohalla Kashipur ,
District, U.S. Nagar. … Petitioner.

Vs.

Collector, Udham Singh Nagar,
And six others. … Respondents.

Sri Alok Singh, Ad. for the petitioners,
Sri Sharad Sharma Ad. for respondent no. 2
& Smt. Beena Pandey, learned Standing Counsel for Govt. of UP.

Dated: March 5, 2004:

Hon'ble M.M. Ghildiyal, J.
Hon'ble Rajesh Tandon, J.

Heard Sri Alok Singh, learned counsel for the petitioner, Sri Sharad Sharma Ad. for respondent no. 2 and Smt. Beena Pandey, learned Standing Counsel for the State of U.P.

By means of this writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of certiorari for quashing of proceedings, which were initiated for attachment and sale of petitioner's house situated in Mohalla Kajibag, Kashipur, District Udham Singh Nagar.

Contention of the petitioner is that in pursuance of the decree passed by the Debts Recovery Tribunal, the Debts Recovery Officer has issued a citation on 10th February 2004 in which the description of the property has been given as Nagar Palika no. 4/1, Mohalla Pukka Kot, Kashipur, District Udham Singh Nagar on plot measuring 667 .18 Sq. ft. and owned by Sri Krishan Kumar Arya and Sri Rajeev Kumar Arya. However, the notice has been affixed for attachment on the property of the petitioner, which has no concerned with the decree of Debts Recovery Tribunal.

The petitioner has submitted that his residential house has never been a subject matter of attachment by the Debts Recovery Tribunal, Lucknow.

In this respect, the petitioner has moved representation before the Recovery Officer, Debts Recovery Tribunal, Hazrat Ganj, Lucknow which is pending before him.

Learned counsel for the petitioner has confined his prayer that the Recovery Officer may be directed to decide the representation of the petitioner and till the representation is decided, the property of the petitioner may not be auctioned. The property of the petitioner is situate at Mohalla Kajibag, Kashipur, District Udham Singh Nagar.

The prayer is innocuous. The Recovery Officer, Debts Recovery Tribunal, Lucknow is directed to decide the representation of the petitioner (annexure-5 to the writ petitioner) within a period of one month from the date of production of a certified copy of this order and till the representation is decided, the property of the petitioner which is situated at Mohalla Kajibag, Kashipur, District Udham Singh Nagar shall not be auctioned.

With these directions, the writ petition is disposed of.

(Rajesh Tandon J.) **(M.M. Ghildiyal J.)**

March 5,2004:
NCM: